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STATE OF ILLINOIS

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ICC Illinois Energy Solutions Forum
Comments of the Office of the Attorney General

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The Office of the Attorney General ("OAG") submits these comments in response to questions that the Illinois Commerce Commission ("ICC" or "Commission") has posed in a "Request for Comment" issued on June 29, 2006, in connection with the ICC Illinois Energy Solutions forum.

The Commission should consider additional perspectives before drawing any conclusions about electricity price increases in Illinois

The Commission initiated the Illinois Energy Solutions forum on June 1, 2006 with presentations by: (1) Bill Brier -- the individual in charge of "advocacy communication" for the Edison Electric Institute, a trade association that advocates on behalf of investor-owned electric utilities before Congress, federal and state regulatory agencies and the courts; and (2) Howard Gruenspecht, a deputy administrator at the U.S. Energy Information Administration who presented a national overview of electric sector data. Based on these presentations the

Commission concluded that electricity price increases are inevitable in Illinois – and that conclusion is the stated premise for the Illinois Energy Solutions forum.

The Commission should re-examine this premise. Indeed, failure to do so could result in a self-fulfilling prophecy that works to the detriment of Illinois consumers and the Illinois economy. The OAG recommends that the Commission consider additional perspectives before drawing any firm conclusions regarding the extent of future electricity price increases in Illinois. Specifically, the Commission should schedule additional presentations that:

Compare the national data discussed by Mr. Brier and Dr. Gruenspecht with Illinois data on fuel mix, generation costs, and capacity margins.

Illinois has abundant low-cost nuclear and coal generation – which presents opportunities that are not available in other parts of the U.S. The Commission should not make policy on the basis of national data that is not representative of the situation in Illinois.

Compare a consumer perspective with the utility perspective presented by Mr. Brier. Since electric rates were frozen in 1997, the cost of producing electricity in Illinois has decreased sharply, regulated utilities have earned rates of return that exceed levels approved by the Commission in the past, and utility generation affiliates have earned record profits. Consumers are asking why the Commission has not adopted a procurement approach that results in lower rates that reflect these lower generation costs – and they would like an opportunity to discuss procurement options that would keep rates low.

Compare the cost of building new capacity in Illinois with prices in regional wholesale electricity markets. Purchases of electricity in the wholesale market should be compared with the cost of new generation to determine which is the better deal for consumers. If wholesale market prices exceed levelized electricity costs for new plants (currently \$50 - \$60/MWH for advanced coal) the prudent option may be to build rather than buy. The Commission should always compare the utilities' purchases of electricity against this benchmark and should hold utilities accountable if they choose to pay high prices to their affiliates and other suppliers rather than build cost-effective plants to serve their customers.

Consumer education programs to help Illinois citizens manage their energy consumption are in the public interest

The Commission calls for implementation of consumer education programs, within the next six months, to help consumers lower their electric bills. The OAG supports these efforts. Educating consumers about energy efficiency will result in immediate savings for individual consumers and yield significant benefits for the Illinois economy. Educating consumers about demand-response will likely increase consumer participation in and savings from real-time-pricing programs implemented pursuant to Public Act 94-0977.

The OAG favors public education programs developed and administered by state agencies with expertise in demand-side management and experience implementing public information programs. Although the Commission has expertise in these areas, its role as a regulatory body makes it ill-suited for this purpose. Utility-administered programs should also be avoided because of inherent conflicts (*i.e.*, the goal of these public education programs is to reduce the utility's sales.)

The OAG does not support a Commission-sponsored workshop process to develop "short-term" public education programs. The Commission's resources should remain focused on developing comprehensive rules to govern long-term implementation of energy efficiency and demand-response programs in ICC docket nos. 06-0388 and 06-0390. To that end, the questions that the Commission raises

on pages 4 and 5 of its June 29th Request for Comment, should be referred to those dockets so that they can be addressed systematically on the record.

Information about the cost-savings that can be realized through improved energy efficiency and demand-response will benefit all consumers – but offers the greatest potential benefits to low income households. Low income consumers spend a disproportionate share of their income on energy consumption (US DOE estimates as much as 35%) and are more likely to live in housing stock that has relatively inefficient heating and cooling systems. The OAG strongly endorses the Commission’s investigation of the adequacy of LIHEAP funding levels and the extent of financial support for weatherization programs and digital meters for low income households.

**The Commission’s questions relating to the pending
ComEd and Ameren rate “stabilization” dockets are troubling**

The June 29th Request for Comment includes the following questions relating to the ComEd and Ameren rate “stabilization” dockets that are now pending before the Commission:

What short-term education efforts are being planned in response to the ComEd rate stabilization docket (06-0411) and the Ameren securitization (06-0448) docket? *Question 4 on page 5.*

Who should take the lead role in promoting the education effort? Please explain. *Question 5 on page 5.*

What long-term education efforts are being planned in response to the ComEd rate stabilization docket (06-0411) and the Ameren securitization (06-0488) docket? *Question 3 on page 4.*

These questions appear to assume ICC approval of the ComEd and Ameren rate “stabilization” plans -- suggesting prejudgment of the legal and factual issues in these dockets. The OAG has filed Motions to Dismiss in both of these dockets and has filed expert testimony showing that ComEd’s so-called rate “stabilization” plan will cost consumers an extra \$160 - \$210 million in 2010 through 2012. Questions about educational efforts to promote the ComEd and Ameren proposals – which have not been shown to be in the public interest -- are highly inappropriate.

Conclusion

In summary, the OAG recommends that the Commission gather additional information -- to avoid creating a self-fulfilling prophecy of inevitable electricity price increases in Illinois. In the meantime, the Commission should encourage an appropriate state agency to implement public education programs on energy efficiency and demand-response. The Commission should refer questions about long-term energy efficiency and demand-response programs to dockets 06-0388 and 06-0390, so that those questions can be addressed systematically on the record. Finally, the Commission should refrain from considering any questions relating to the rate “stabilization” plans being contested in pending dockets.